

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

EMMA QUESADA TELLERIA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3065

Decision No. CU 5964

Counsel for claimant:

VanderZeyde & Pierce
By William H. Pierce, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by EMMA QUESADA TELLERIA, for \$92,500, based upon the asserted ownership and loss of real and personal property in Valadero, Cardenas, Matanzas, Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term "property" means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant described the losses subject of this claim as follows:

1) Lot 6, Block 4	\$ 8,500
2) House on above	60,000
3) Lot 10, Block 3	18,000
4) Personalty	<u>6,000</u>
	\$92,500

On the basis of the record, including a report from abroad, an affidavit from an officer of the company which sold the lots, and an affidavit of the claimant, the Commission finds that claimant, and, pursuant to the community property law of Cuba, her spouse owned equal interests in certain real and personal property in Cuba.

On December 6, 1961, the Cuban Government published its Law 989, which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who left Cuba. The record shows that claimant left Cuba in November, 1960, and that her spouse came to the United States in May, 1961.

Based on the foregoing, the Commission finds that the subject real and personal property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The record discloses that claimant's spouse, a Cuban national, died on December 18, 1961. Accordingly, so much of the claim as arose from the loss of his one-half interest in the property, having been taken from a non-national of the United States is not within the scope of Title V of the Act, and is therefore denied. (See Claim of Sigridur Einarsdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 [July-Dec. 1966].)

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Evidence of record reflects that Oscar Telleria Torrontegui was survived by claimant and three children, two of whom are said to be naturalized citizens of the United States and who have petitioned to be joined in this matter. Although at the outset of the development of this matter, it appeared they might have inherited interests, and the suggestion of joinder was made to counsel, it later became apparent that any inherited interest would be in the claim of a non-United States national, and thus not certifiable, and this was relayed to counsel. Under the circumstances the petitions are denied.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

On the basis of the record, including the affidavit of the selling company official, and the report from abroad, the Commission finds that on the date of loss the two lots had a value of \$26,500 and the house had a value of \$60,000.

Claimant has submitted a 4-page listing of the personalty in the residence but has given the approximate prices of only five items, saying that the home was completed in 1956 and that it is not otherwise possible for her to be specific about pricing. She estimates the cost as at least \$6,000.

The Commission finds that the personal property was subject to usual depreciation and in the absence of evidence to the contrary finds that it had an average life of five years, and depreciated at the rate of 5 per cent per year. Thus on the date of loss, the value is found to have been \$4,500.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$45,500 within the meaning of Title V of the Act, as the result of the taking of her interest in the above-described property by the Government of Cuba on December 6, 1961.


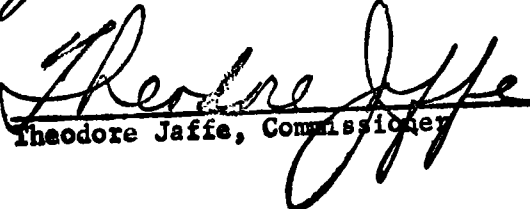
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that EMMA QUESADA TELLERIA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-Five Thousand Five Hundred Dollars (\$45,500) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

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Lyle S. Garlock, Chairman

Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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